

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 535 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BHARATKUMAR BABULAL NAI

Versus

STATE OF GUJARAT

Appearance:

MR MUKESH R SHAH for Petitioner
Ms. S.D.Talati, ASSTT. GOVERNMENT PLEADER for
the Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 11/08/2000

ORAL JUDGEMENT

By means of this petition, the petitioner
has sought for a direction to pay equal salary which is
being paid to the persons and regular employees of Social
Welfare Department and give all benefits those are given

to regular employee.

2. The petitioner was appointed by the respondent no. 3 District Social Officer as Pracharak by an order dated 27.1.1986 on monthly payment of Rs.150- + Rs.100/- as travelling allowance as salary. The petitioner joined services on 31.1.86. Since then he is in continuous service. Various persons were also appointed and working in similar manner on the same post. The Government had taken a decision not to continue any Pracharak for more than two years though the term was continued upto 28th February, 1987 by a circular dated 18.9.1986 and that term of service was extended from time to time. Some of them similar situated like the petitioner were terminated from service and their services were continued. Various petitions were filed in this Court and those petitions have been admitted and interim orders were passed by this Court not to discontinue the services of the petitioners of those petitions.

3. A group of matters of the persons similarly situated like the petitioner has already been decided by this Court in the case of Saurashtra Safai Kamdar Vikas Samittee and another vs. State of Gujarat reported in 2000(2) GLR, 1476 decided on 23.6.1999.

4. The learned counsel for the petitioner submitted that as this Court has already decided the matter and directed the department concerned to continue the services and pay the allowance at the rate mentioned therein. I have considered the facts and circumstances of the present case. In the case of Saurashtra Safai Kamdar Vikas Smittee (Supra), it has been held as under:

"The respondents are therefore, required to be directed to pay the petitioners and all other Pracharaks honorarium at the same rates at which remuneration was paid to the Pracharaks employed by the voluntary agencies with effect from the date on which this group of petitions came to be filed in this Court, i.e. with effect from 1.1.1985 onwards (Special Civil Application no. 107 of 1985 was filed on 8.1.1985-for convenience of calculation, the date being specified is 1.1.1985), or with effect from the date of appointment of individual petititioner/s, whichever is later.

It is clarified that the direction to pay the difference as aforesaid shall not apply in

respect of the Pracharaks who are found to be guilty of any irregularities or against whom any inquiry is pending. They shall be paid such difference only after they are exonerated at the inquiry which shall be completed within four months from the date of receipt of the writ of this Court or a certified copy of this judgment, whichever is earlier.

It is further directed that that the the petitioners and all other Pracharaks who have continued as Pracharaks, by virtue of the interim orders passed by this Court or otherwise, the honorarium at the same rates at which remuneration was fixed for Pracharaks employed by the voluntary agencies with effect from 1.1.1985 onwards or with effect from the date of appointment of individual petitioner/s, whichever is later. This direction shall be complied with within four months from the date of receipt of the writ of this Court or a certified copy of this judgment, whichever is earlier."

5. The services of the petitioner have not been discontinued pursuant to any resolution passed by the Government nor he has challenged the vires of the resolution passed by the Government. He has prayed only for a direction to pay equal salary which is being paid to regular employees of Social Welfare Deptment and give all benefits which are being given to regular employees. Thus, in the present case, the services of the petitioner have not been discontinued and he is still serving in the same department. As such, fixation of the salary has already been determined by this Court in the aforesaid case.

6. In the facts and circumstances of the case, this petition is required to be disposed of with a direction that the concerned respondents are directed to fix the pay scale of the petitioner in light of the observations made by this Court in the case of Saurashtra Safai Kamdar Vikas Samittee (Supra) and give all such benefits as permissible under the orders of this Court within a period of four months from the date of receipt of writ from this Court or a certified copy of this judgment is presented by the petitioner, whichever is earlier. Rule is made absolute accordingly with no order as to costs.

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